

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SST FOUNDATION, :

Plaintiff, :

-against- :

CREDIT SUISSE, SUISSE AMERICAN SECURITIES, :  
INC., and NEW YORK STATE DEPARTMENT OF :  
TAXATION, :

Defendants. :

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**NOTICE OF MOTION**

07 CV 4758

(SAS)

PLEASE TAKE NOTICE that upon the the accompanying memorandum of law; and upon all prior proceedings, defendant New York State Department of Taxation and Finance, on August 2, 2007, at 9:30 a.m, at the United States Courthouse, 500 Pearl Street, New York, NY 10007, or at such time and place as the Court may appoint, for an order pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure dismissing the complaint as against the New York State Department of Taxation and Finance because such claim is barred by the Eleventh Amendment, U.S. Const. Amend. XI.

Dated: New York, New York  
July 2, 2007

ANDREW M. CUOMO  
Attorney General of the State  
of New York  
Attorney for Defendant  
New York State Department of Taxation and Finance

By: /s/ Elizabeth A. Forman /s/

ELIZABETH A. FORMAN  
Assistant Attorney General  
120 Broadway - 24<sup>th</sup> Floor  
New York, New York 10271

(212) 416-8538